

## CHAPTER 206

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**HEALTH CARE POLICY AND FINANCING**

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**HOUSE BILL 19-1004**

BY REPRESENTATIVE(S) Roberts and Catlin, Bird, Buckner, Buentello, Caraveo, Cutter, Esgar, Exum, Froelich, Galindo, Garnett, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kennedy, Kipp, Lontine, McCluskie, McLachlan, Michaelson Jenet, Mullica, Singer, Sirota, Snyder, Tipper, Valdez A., Valdez D., Weissman, Becker, Arndt, Duran, Wilson;  
also SENATOR(S) Donovan, Bridges, Court, Danielson, Fenberg, Fields, Foote, Ginal, Gonzales, Lee, Moreno, Pettersen, Story, Todd, Williams A., Winter, Zenzinger, Garcia.

**AN ACT**

**CONCERNING A PROPOSAL FOR IMPLEMENTING A COMPETITIVE STATE OPTION FOR MORE AFFORDABLE HEALTH CARE COVERAGE IN COLORADO, AND, IN CONNECTION THEREWITH, REQUESTING AUTHORIZATION TO USE EXISTING FEDERAL MONEY FOR THE PROPOSED STATE OPTION AND TAKING OTHER ACTIONS TOWARD THE IMPLEMENTATION OF THE STATE OPTION, AND MAKING AN APPROPRIATION.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, **add** 25.5-1-129 as follows:

**25.5-1-129. State department proposal - state option for health care coverage - report to general assembly - waiver authorization - legislative declaration.**  
(1) (a) THE GENERAL ASSEMBLY FINDS THAT:

(I) EVERY COLORADAN DESERVES ACCESS TO HIGH-QUALITY, AFFORDABLE HEALTH CARE TO HELP SUPPORT HIS OR HER WELL-BEING AND ECONOMIC SECURITY;

(II) TO ACHIEVE THESE GOALS, COLORADO HAS SUCCESSFULLY IMPLEMENTED PROVISIONS OF THE FEDERAL "PATIENT PROTECTION AND AFFORDABLE CARE ACT" THAT HAVE HELPED EXPAND ACCESS AND INCREASE AFFORDABILITY TO THOUSANDS OF COLORADANS, INCLUDING EXPANDING MEDICAID COVERAGE TO MORE LOW-INCOME ADULTS AND CREATING THE COLORADO HEALTH BENEFIT EXCHANGE;

(III) DESPITE THIS SUCCESS, IN SEVERAL REGIONS OF THE STATE, HEALTH INSURANCE IS NOT AFFORDABLE DUE TO HIGH HEALTH CARE COSTS AND LIMITED OR NO COMPETITION AMONG INSURANCE CARRIERS AS WELL AS OTHER MARKETPLACE

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

FACTORS, AND COLORADANS CANNOT AFFORD THE HEALTH INSURANCE PREMIUMS AND OUT-OF-POCKET EXPENSES;

(IV) SPECIFICALLY, COLORADANS IN FOURTEEN COUNTIES HAVE ACCESS TO ONLY A SINGLE HEALTH INSURANCE CARRIER PARTICIPATING IN THE COLORADO HEALTH BENEFIT EXCHANGE, AND THE NUMBER OF UNINSURED COLORADANS IN THOSE COUNTIES IS RISING;

(V) COLORADO HAS HISTORICALLY BEEN A NATIONAL LEADER IN HEALTH CARE INNOVATION;

(VI) UNCERTAINTY AT THE FEDERAL LEVEL REQUIRES COLORADO TO BE PROACTIVE AND EXPLORE AND IMPLEMENT ITS OWN INNOVATIVE SOLUTIONS TO PROVIDE GREATER ACCESS TO AFFORDABLE, HIGH-QUALITY HEALTH CARE COVERAGE FOR COLORADO RESIDENTS; AND

(VII) A STATE OPTION FOR HEALTH CARE COVERAGE THAT USES EXISTING STATE HEALTH CARE INFRASTRUCTURE MAY DECREASE COSTS FOR COLORADANS, INCREASE COMPETITION, AND IMPROVE ACCESS TO HIGH-QUALITY, AFFORDABLE, AND EFFICIENT HEALTH CARE.

(b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT TASKING THE STATE DEPARTMENT AND THE DIVISION OF INSURANCE IN THE DEPARTMENT OF REGULATORY AGENCIES, REFERRED TO IN THIS SECTION AS "THE DIVISION", WITH DEVELOPING A PROPOSAL THAT CONSIDERS THE FEASIBILITY AND COST OF IMPLEMENTING A STATE OPTION FOR HEALTH CARE COVERAGE THAT LEVERAGES EXISTING STATE HEALTH CARE INFRASTRUCTURE, INCREASES COMPETITION, IMPROVES QUALITY, AND PROVIDES STABLE ACCESS TO AFFORDABLE HEALTH INSURANCE WILL ENABLE POLICYMAKERS TO CONSIDER AND CREATE AN INNOVATIVE STATE OPTION FOR HEALTH INSURANCE COVERAGE TO BENEFIT COLORADO.

(2) (a) ON OR BEFORE NOVEMBER 15, 2019, THE STATE DEPARTMENT AND THE DIVISION SHALL DEVELOP AND SUBMIT A PROPOSAL TO THE JOINT BUDGET COMMITTEE; THE PUBLIC HEALTH CARE AND HUMAN SERVICES AND HEALTH AND INSURANCE COMMITTEES OF THE HOUSE OF REPRESENTATIVES; AND THE HEALTH AND HUMAN SERVICES COMMITTEE OF THE SENATE, OR ANY SUCCESSOR COMMITTEES, FOR A STATE OPTION FOR HEALTH CARE COVERAGE THAT LEVERAGES EXISTING STATE INFRASTRUCTURE.

(b) IN ADDITION TO SUBMITTING THE PROPOSAL TO THE COMMITTEES OF THE GENERAL ASSEMBLY LISTED IN SUBSECTION (2)(a) OF THIS SECTION, THE STATE DEPARTMENT AND THE DIVISION SHALL PRESENT A SUMMARY OF THE PROPOSAL AT THE ANNUAL JOINT MEETING OF THE HOUSE AND SENATE COMMITTEES CONDUCTED DURING THE LEGISLATIVE INTERIM PRIOR TO THE 2020 LEGISLATIVE SESSION PURSUANT TO SECTION 2-7-203.

(3) THE PROPOSAL MUST DESCRIBE A STATE OPTION FOR HEALTH CARE COVERAGE. THE PROPOSAL MUST IDENTIFY THE MOST EFFECTIVE IMPLEMENTATION OF A STATE OPTION BASED ON AFFORDABILITY TO CONSUMERS AT DIFFERENT INCOME LEVELS, ADMINISTRATIVE AND FINANCIAL BURDEN TO THE STATE, EASE OF IMPLEMENTATION, AND LIKELIHOOD OF SUCCESS IN MEETING THE OBJECTIVES DESCRIBED IN

## SUBSECTION (1) OF THIS SECTION.

(4) IN DEVELOPING THE PROPOSAL, THE STATE DEPARTMENT AND THE DIVISION SHALL:

(a) CONDUCT ACTUARIAL RESEARCH TO IDENTIFY THE POTENTIAL COST OF PREMIUMS AND COST-SHARING TO PAY CLAIMS IN A PLAN THAT IS, AT A MINIMUM, AN ESSENTIAL HEALTH-BENEFIT-COMPLIANT PLAN, AS DEFINED IN SECTION 10-16-102 (22);

(b) EVALUATE PROVIDER RATES NECESSARY TO INCENTIVIZE PARTICIPATION AND ENCOURAGE NETWORK ADEQUACY AND HIGH-QUALITY HEALTH CARE DELIVERY;

(c) EVALUATE ELIGIBILITY CRITERIA FOR INDIVIDUALS AND SMALL BUSINESSES TO PARTICIPATE;

(d) DETERMINE THE IMPACT, IF ANY, ON THE STATE BUDGET;

(e) DETERMINE THE IMPACT ON THE STABILITY OF THE INDIVIDUAL MARKET, THE SMALL GROUP MARKET, AND THE COLORADO HEALTH BENEFIT EXCHANGE CREATED IN ARTICLE 22 OF TITLE 10;

(f) EVALUATE THE IMPACT ON CONSUMERS ELIGIBLE FOR FINANCIAL ASSISTANCE FOR PLANS PURCHASED ON THE EXCHANGE;

(g) DETERMINE WHETHER A STATE OPTION PLAN SHOULD BE OFFERED ON OR OFF THE EXCHANGE;

(h) DETERMINE WHETHER THE STATE OPTION PLAN SHOULD BE A FULLY AT-RISK, MANAGED CARE, FEE-FOR-SERVICE, OR ACCOUNTABLE CARE COLLABORATIVE PLAN, OR A COMBINATION THEREOF;

(i) DETERMINE WHETHER THE STATE OPTION SHOULD BE OFFERED THROUGH THE STATE DEPARTMENT, AND IDENTIFY THE EXPECTED IMPACT, IF ANY, TO THE COLORADO MEDICAL ASSISTANCE PROGRAM ESTABLISHED IN ARTICLES 4, 5, AND 6 OF THIS TITLE 25.5;

(j) IDENTIFY THE EXPECTED IMPACT, IF ANY, TO THE CHILDREN'S BASIC HEALTH PLAN ESTABLISHED IN ARTICLE 8 OF THIS TITLE 25.5;

(k) INVESTIGATE FUNDING OPTIONS, INCLUDING BUT NOT LIMITED TO STATE FUNDS AND FEDERAL FUNDS SECURED THROUGH AVAILABLE WAIVERS;

(l) EVALUATE THE FEASIBILITY, LEGALITY, AND SCOPE OF ANY NECESSARY FEDERAL WAIVERS;

(m) REVIEW INFORMATION RELATING TO ANY PILOT PROGRAM THAT MAY BE OPERATED BY THE STATE PERSONNEL DIRECTOR PURSUANT TO SECTION 24-50-620, AS ENACTED IN SENATE BILL 19-004; AND

(n) CREATE A STATEWIDE DEFINITION OF AFFORDABILITY FOR CONSUMERS.

(5) IN DEVELOPING THE PROPOSAL, THE STATE DEPARTMENT AND THE DIVISION SHALL CONSULT WITH THE COLORADO HEALTH BENEFIT EXCHANGE AND SHALL ENGAGE IN A STAKEHOLDER PROCESS THAT INCLUDES PUBLIC AND PRIVATE HEALTH INSURANCE EXPERTS, AS WELL AS CONSUMERS, CONSUMER ADVOCATES, EMPLOYERS, PROVIDERS, AND CARRIERS.

(6) THE PROPOSAL SUBMITTED TO THE COMMITTEES OF THE GENERAL ASSEMBLY PURSUANT TO THIS SECTION MUST INCLUDE DETAILED ANALYSIS OF THE PROPOSED STATE OPTION AND THE VARIOUS METHODS FOR IMPLEMENTING THE PROPOSED STATE OPTION, AS WELL AS ANY IDENTIFIED STATUTORY OR RULE CHANGES NECESSARY TO IMPLEMENT THE PROPOSED STATE OPTION.

(7) (a) (I) AFTER THE PROPOSAL CREATED PURSUANT TO THIS SECTION IS SUBMITTED AND PRESENTED TO THE COMMITTEES OF THE GENERAL ASSEMBLY, THE STATE DEPARTMENT AND THE DIVISION SHALL PREPARE AND SUBMIT ANY FEDERAL WAIVERS OR STATE PLAN AMENDMENTS NECESSARY TO FUND AND IMPLEMENT THE STATE OPTION FOR HEALTH CARE COVERAGE AS DESCRIBED IN THE PROPOSAL CREATED PURSUANT TO SUBSECTION (2)(a) OF THIS SECTION.

(II) THE STATE DEPARTMENT'S AND THE DIVISION'S REQUESTS FOR FEDERAL AUTHORIZATION MUST SEEK TO OBTAIN THE MAXIMUM AMOUNT OF FEDERAL MONEY AVAILABLE TO THE STATE AND TO PERSONS PARTICIPATING IN THE STATE OPTION FOR HEALTH CARE COVERAGE.

(b) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (7)(a)(I) OF THIS SECTION TO THE CONTRARY, THE PREPARATION AND SUBMISSION OF FEDERAL WAIVERS OR AMENDMENTS MUST BE DELAYED IF A MEMBER OF THE GENERAL ASSEMBLY FILES A BILL DURING THE 2020 LEGISLATIVE SESSION BY THE REGULAR BILL FILING DEADLINE OF THE HOUSE OF REPRESENTATIVES, AS SET FORTH IN RULE 23 OF THE JOINT RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES, THAT SUBSTANTIALLY ALTERS THE FEDERAL AUTHORIZATION REQUIRED PURSUANT TO THE PROPOSAL TO IMPLEMENT THE STATE OPTION FOR HEALTH CARE COVERAGE, AND SUCH BILL IS NOT POSTPONED INDEFINITELY IN THE FIRST COMMITTEE OF REFERENCE. THE DEPARTMENT'S AND THE DIVISION'S WAIVER PREPARATION PROCESS SHALL RESUME AFTER THE BILL IS POSTPONED INDEFINITELY OR, IF PASSED BY THE GENERAL ASSEMBLY, THE REQUESTED WAIVERS OR STATE PLAN AMENDMENTS MUST REFLECT THE REQUIREMENTS IN THE PASSED LEGISLATION.

(c) SUBJECT TO THE CONDITIONS DESCRIBED IN SUBSECTION (7)(b) OF THIS SECTION, THE STATE DEPARTMENT AND THE DIVISION MAY PROMULGATE RULES, AS NECESSARY, FOR THE PREPARATION AND SUBMISSION OF FEDERAL WAIVERS OR STATE PLAN AMENDMENTS NECESSARY TO FUND AND IMPLEMENT THE PROPOSAL.

**SECTION 2. Appropriation.** (1) For the 2018-19 state fiscal year, \$75,000 is appropriated to the department of health care policy and financing for use by the executive director's office. This appropriation is from the general fund. To implement this act, the office may use this appropriation for general professional services and special projects.

(2) For the 2018-19 state fiscal year, \$115,500 is appropriated to the department of regulatory agencies for use by the division of insurance. This appropriation is

from the general fund. To implement this act, the division may use this appropriation for personal services.

**SECTION 3. Appropriation.** (1) For the 2019-20 state fiscal year, \$150,000 is appropriated to the department of health care policy and financing for use by the executive director's office. This appropriation is from the general fund. To implement this act, the office may use this appropriation for general professional services and special projects.

(2) For the 2019-20 state fiscal year, \$231,000 is appropriated to the department of regulatory agencies for use by the division of insurance. This appropriation is from the general fund. To implement this act, the division may use this appropriation for personal services.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 17, 2019